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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,413	10/16/2001	Naomi Nakao	G30-002	4498

7590 01/26/2004

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EXAMINER

NGUYEN, VI X

ART UNIT	PAPER NUMBER
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3731

3

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,413

Applicant(s)

NAKAO, NAOMI

Examiner

Victor X Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 10, 16 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species 1, Figs 1 and 2, claims 1-9, 17 and 19-20 in Paper No. 3 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 6-7, 9, 17 and 19-20 are rejected under 35 U.S.C. 102 (e) as being anticipated by Edwards (U.S. 6,409,723).

Edwards discloses in fig. 1, an endoscopic assembly (120) having all the limitations of claims 1 and 17, including: a tube (110) is insertable through a channel of an endoscopic instrument (120). A balloon has a pair of inflatable end members (113, 114) and at least one inflatable spacer (115) connects the end members to one another. Inflation means (see col. 5, lines 1-34) coupled with the balloon for inflating the balloon; and wherein the spacer (115) member pushes the end members apart from one another.

Regarding claims 2 and 19, Edwards discloses a tube (110) connects to the balloon.

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Regarding claims 6-7,9 and 20, Edwards discloses the inflatable end members are toroidal (fig. 3). The spacer (115) member is one of a plurality of inflatable spacer members each having one end connected to with one of the end members; and wherein the parts include a plurality of inflatable balloon (see col. 4, lines 23-67).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 and 8 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Edwards (6,409,723) in view of Chin et al (5,634,883).

Regarding claims 3-5, Edwards is explained as before. However, Edwards does not disclose the valve that is connected to the balloon.

Chin et al teach the valve that is connected to the balloon (figs. 33-34, item 115).

It would have been obvious to one having ordinary skill in the art at the same time the invention was made to modify Edwards by adding the valve that is connected to the balloon as taught by Chin et al in order to prevent the return flow of the body fluid passing through it. Regarding claim 8, Edwards fails to disclose one of the inflatable end members has an aperture with a membrane. Chin et al teach one of the inflatable end members has an aperture with a membrane (figs. 34-35, item 114).

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It would have been obvious to one having ordinary skill in the art at the same time the invention was made to modify Edwards by adding one of the inflatable end members has an aperture with a membrane as taught by Chin et al in order to drape and shield the internal body organs.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. 5,630,843 to Rosenberg

U.S. Pat. 5,411,479 to Bodden

U.S. Pat. 4,241,735 to Chrnov

U.S. Pat. 6,048,330 to Atala

U.S. Pat. 5,354,270 to Wilk

U.S. Pat. 6,425,877 to Edwards


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898. The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Victor X Nguyen
Examiner
Art Unit 3731

Vn *✓*
January 16, 2004


MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700